IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

TUESDAY, THE 7TH AUGUST 2007 / 16TH SRAVANA 1929

Bail Appl..No. 4700 of 2007()

CRIME NO. 99/07 OF KOTTAYI POLICE STATION
CRMP.2622/2007 of DISTRICT COURT, PALAKKAD

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PETITIONERS/ACCUSED

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1. SASIKUMAR, S/O.KUTTICHAMI, AGED 32 YEARS, CHEVAYIL HOUSE, KOTTAYI, PALAKKAD.

2. KUTTICHAMI, S/O.ANDI, AGED 65 YEARS, CHEVAYIL HOUSE, KOTTAYI, PALAKKAD.

3. LAKSHMI, W/O.KUTTICHAMI, AGED 60 YEARS, CHEVAYIL HOUSE, KOTTAYI, PALAKKAD.

BY ADV. SRI.K.ANAND

RESPONDENTS: STATE & COMPLAINANT

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1. STATE OF KERALA, REP. BY THE PUBLIC PROSECUTOR, HIGH COURT OF KERALA.

2. SUB INSPECTOR OF POLICE, KOTTAYI POLICE STATION.

BY PUBLIC PROSECUTOR SRI. S.U. NAZAR

THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON 07/08/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R. BASANT, J.

B.A. No. 4700 OF 2007

Dated this the 7th day of August, 2007

ORDER

Application for anticipatory bail. The petitioners are the husband and parents of the deceased wife. The marriage took place on 1/2/04. The couple is blessed with one child. It is the case of the prosecution that unable to endure the cruelty meted out to her at the matrimonial home by the petitioners herein, the wife of the 1st petitioner allegedly committed suicide by hanging on 15/7/07. A crime has been registered. Even in the First Information Statement, the allegation of matrimonial cruelty is clearly made out. Investigation is in progress. The petitioners apprehend imminent arrest.

2. The learned counsel for the petitioners submits that the petitioners absolutely innocent. The 1st petitioner – husband is aged about 32 years. Petitioners 2 and 3 are aged 65 years and 60 years respectively. The commission of

suicide by the deceased is not attributable to any wilful conduct on the part of the petitioner. At any rate, considering the totality of the circumstances, anticipatory bail may be granted to the petitioners, it is prayed.

3. The learned Public Prosecutor opposes the application. The learned Public Prosecutor submits that sufficient indications have been collected by the Investigator by now which unerringly point to the contumacious responsibility of the petitioners for the commission of the suicide by the deceased.

4. I shall carefully avoid any detailed discussion on the acceptability of the allegations or the credibility of the data collected. I must alertly remind myself of the nature, quality and contours of the jurisdiction that I am called upon to exercise. It is an extraordinary power/discretion which is vested in this Court under Sec.438 of the Cr.P.C. An order of this Court virtually converts a non-bailable offence so declared under the Code to a bailable offence. Considerable care, caution, circumspection and restraint must be exercised by this Court before invoking such extraordinary equitable discretion. The Case Diary has been made available for my perusal. I have gone through the Case Diary in detail. I shall only mention that after having anxiously considered all the relevant inputs, I am unable

to agree that there are any features in this case which would justify the invocation of such extraordinary equitable discretion by this Court. Even the fact that the petitioners if they approached court with an application for regular bail may have been granted such bail cannot persuade me to invoke the powers under Sec.438 of the Cr.P.C. This, I am satisfied, is a fit case where the petitioners must resort to the ordinary and normal course of appearing before the Investigating Officer or the learned Magistrate having jurisdiction and then seek regular bail in the ordinary course.

5. In the result, this bail application is dismissed; but with the observation that if the petitioners surrender before the Investigating Officer or the learned Magistrate and seek bail, after giving sufficient prior notice to the Prosecutor in charge of the case, the learned Magistrate must proceed to pass appropriate orders on merits and expeditiously.

Sd/-

(R. BASANT, JUDGE)

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//true copy// P.S. To Judge